IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 15937 of 2004

Between:

Jampana Viswanadha Raju, S/o. Late J. Ramamurthy Raju,
R/o. H.No. 5, Block No.9 Two roomed new Quaters,
Sriramnagar - 535101 Vijayanagaram District.

..... PETITIONER

AND

1 The General Manager, Ferro Alloys Corporation Ltd.
Sriramnagar, Vijayanagaram District.
2 The Asst. general Manager, Ferro Alloys Corporation Ltd.
Sriramnagar - 534 101, Vijayanagaram District.
3 The Presiding Officer, Industrial Tribunal CUM Labour Court,

Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction particularly one in the nature of Writ of prohibition declaring the order of the 3rd respondent dt.14-6-2004 in I.D.No.202/2001 as illegal arbitrary and violate of principles of natural justice and consequently held that the domestic inquiry is involution of principals of natural justice.

Counsel for the Petitioner: MR.V.RAGHU

Counsel for the Respondents: GP FOR LABOUR

The Court at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C.BHANU

WRIT PETITION NO: 15937 of 2004

ORDER:

Challenging the order passed in I.D.No.202 of 2001, dated 14-06-2004, on the file of Industrial Tribunal-cum-Labour Court, Visakhapatnam, the present writ petition is filed.

2. The only question, raised by the learned counsel for the petitioner is that in the enquiry, the management was represented by a legally trained person, but the same opportunity was not given to the petitioner to defend his case by representing a legally trained person on his behalf and thereby the principles of natural justice have been violated.

3 . On the other hand, Sri V.Venkata Ramana, the learned Government Pleader for Labour contended that on a preliminary issue viz., "whether the domestic enquiry that is conducted in this case is valid", the Tribunal held that 'the enquiry officer conducted the enquiry proceedings against the petitioner following the principles of natural justice and the domestic enquiry is valid.' The question as to whether the domestic enquiry is valid or not has to be determined by the Tribunal after adducing necessary evidence by both the parties and therefore, a direction may be given to the Tribunal to dispose of the I.D. within a particular period.

4. Admittedly, the main I.D.No.202 of 2001 is pending. To what extent non-permitting the petitioner to defend his case through a legally trained person, in the departmental enquiry, is a question of fact that has to be decided based on the facts and circumstances of the case and on the evidence that may be adduced by both the

parties. Therefore, I am of the considered view that instead of deciding this issue at a preliminary stage, the Tribunal ought to have considered the said aspect at the time of disposal of I.D.No.202 of 2001, after taking necessary evidence.

5. Accordingly, the Writ petition is disposed of with a direction to the 3rd respondent to dispose of the I.D.No.202 of 2001, within a period of four months from the date of receipt of a copy of this order, without adverting to the findings given in the impugned order dated 14-06-2004, with regard to the aspect in what manner and in which way the petitioner is not permitted to prosecute his case in the departmental enquiry by a legally trained person. In the circumstances, there shall be no order as to costs.

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December 13, 2004

Note:

Issue C.C. in two days.

B/o.

Kvr

TO

1 The General Manager, Ferro Alloys Corporation Ltd.
Sriramnagar, Vijayanagaram District.
2 The Asst. general Manager, Ferro Alloys Corporation Ltd.
Sriramnagar - 534 101, Vijayanagaram District.
3 The Presiding Officer, Industrial Tribunal CUM Labour Court,

Visakhapatnam.

4 Two C.Cs. to G.P. for Labour, High Court Buildings,

High Court of A.P., Hyderabad (OUT)

3 Two C.D. Copies.